

**RIGHTS OF A DEFENDANT IN A CRIMINAL
TRIAL**

2002 GENERAL SESSION

STATE OF UTAH

Sponsor: Glenn A. Donnelson

This act modifies the Utah Code of Criminal Procedure to add, as a right of the defendant in a criminal trial, a requirement that juries be informed of their right and responsibility to judge the law as well as the conduct of the defendant.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

77-1-6, as enacted by Chapter 15, Laws of Utah 1980

REPEALS:

77-17-10, as enacted by Chapter 15, Laws of Utah 1980

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **77-1-6** is amended to read:

77-1-6. Rights of defendant.

(1) In criminal prosecutions the defendant is entitled to:

(a) ~~[To]~~ appear in person and defend in person or by counsel;

(b) ~~[To]~~ receive a copy of the accusation filed against him;

(c) ~~[To]~~ testify in his own behalf;

(d) ~~[To]~~ be confronted by the witnesses against him;

(e) ~~[To]~~ have compulsory process to insure the attendance of witnesses in his behalf;

(f) ~~[To]~~ a speedy public trial by an impartial jury of the county or district where the offense is alleged to have been committed;

(g) ~~[To]~~ the right of appeal in all cases; and

(h) ~~[To]~~ be admitted to bail in accordance with provisions of law, or be entitled to a trial within 30 days after arraignment if unable to post bail and if the business of the court permits.



(2) In addition a person may not:

(a) ~~[No person shall]~~ be put twice in jeopardy for the same offense;

(b) ~~[No accused person shall,]~~ before final judgment, be compelled to advance money or fees to secure rights guaranteed by the constitution or the laws of Utah, or to pay the costs of those rights when received;

(c) ~~[No person shall]~~ be compelled to give evidence against himself; or

~~[(d) A wife shall not be compelled to testify against her husband nor a husband against his wife; and]~~

~~[(e) No person shall]~~

(d) be convicted unless by verdict of a jury, or upon a plea of guilty or no contest, or upon a judgment of a court when trial by jury has been waived or, in case of an infraction, upon a judgment by a magistrate.

(3) A wife shall not be compelled to testify against her husband nor a husband against his wife.

(4) (a) The defendant's right to trial by jury includes jurors who are instructed of their power to judge the law as well as the evidence, and to vote on the verdict according to their conscience. This right may not be infringed by any statute, juror oath, court order, or procedure or practice of the court, including the use of any method of jury selection which could preclude or limit the impanelment of jurors who will exercise this power.

(b) Upon the request of either party, the judge shall instruct the jury of this right.

(c) Failure to so instruct the jury, when requested, shall be grounds for a mistrial.

Section 2. **Repealer.**

This act repeals:

Section **77-17-10, Court to determine law; the jury, the facts.**

Legislative Review Note

as of **1-28-02 9:54 AM**

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel